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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,

11 Case No. 2:17-cr-00110-APG-DJA

12 Plaintiff,

13 **Stipulation to Continue Restitution Hearing**
14 **and Sentencings (Fourth Request)**

v.

15 PHILLIP D. HURBACE et al.,

16 Defendants.

17 IT IS HEREBY STIPULATED AND AGREED, by and between Jason M. Frierson,
18 United States Attorney, through Richard Anthony Lopez and Mina Chang, Assistant United
19 States Attorneys, counsel for the United States of America, Osvaldo E. Fumo, Esq., counsel for
20 defendant Phillip D. Hurbace, Lisa A. Rasmussen, Esq., counsel for defendant Sylviane Della
21 Whitmore, and Daniel Hill, Esq., counsel for defendant Larry Anthony McDaniel, that the
22 Court continue the restitution hearing scheduled for October 10, 2023, at 10:00 a.m. and the
23 sentencing hearings scheduled for October 12, 2023, at 11:00 a.m., 1:30 p.m., and 2:30 p.m. to a
24 date convenient to the Court, preferably January 16, 2024, for the restitution hearing and
January 18, 2024, for the sentencings.

This Stipulation is entered into for the following reasons:

1 1. The government recently received large amounts of documentation from victims
2 requesting restitution that needs to be reviewed by the government and produced to the defense
3 so that all parties can be adequately prepared for a hearing on restitution.

4 2. In addition, the Zero Point Offender amendment to the Sentencing Guidelines
5 takes effect on November 1, 2023, and postponing sentencing to after that date will remove any
6 legal issues associated with its retroactive application.

7 3. The parties cannot find a date in November that works for all because of
8 significant medical treatments and scheduling conflicts.

9 4. In addition, counsel for Whitmore is scheduled to begin a federal civil trial on
10 December 4, 2023, that is expected to last approximately one week.

11 5. The Court is scheduled to start a lengthy bench trial on December 4, 2023.

12 6. All parties and the Court are available January 16 and 18, 2024.

13 7. This continuance is not sought for purposes of delay, but to provide the parties the
14 time necessary to adequately prepare and to accommodate medical and trial schedules.

15 8. For the reasons stated above, the ends of justice would best be served by a
16 continuance of the deadline. Denial of this request for continuance of the deadline could result in
17 a miscarriage of justice.

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1 9. Defendants are out of custody and do not object to the request for continuance.

2 DATED this 5th day of October, 2023.

3 Respectfully submitted,

4 /s/ Osvaldo E. Fumo
OSVALDO E. FUMO, ESQ.
5 Counsel for Defendant HURBACE

JASON M. FRIERSON
United States Attorney

6 /s/ Daniel Hill
DANIEL HILL, ESQ.
7 Counsel for Defendant MCDANIEL

/s/ Richard Anthony Lopez
RICHARD ANTHONY LOPEZ
MINA CHANG
8 Assistant United States Attorneys

9 /s/ Lisa A. Rasmussen
LISA A. RASMUSSEN, ESQ.
Counsel for Defendant WHITMORE

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

V.

PHILLIP D. HURBACE et al.,

Defendants.

Case No. 2:17-cr-00110-APG-DJA

Order Granting Stipulation to Continue Restitution Hearing and Sentencings (Fourth Request)

Based on the parties' stipulation to continue the restitution and sentencing hearings, and cause appearing therefore, the Court hereby finds that:

1. The government recently received large amounts of documentation from victims requesting restitution that needs to be reviewed by the government and produced to the defense so that all parties can be adequately prepared for a hearing on restitution.

2. In addition, the Zero Point Offender amendment to the Sentencing Guidelines takes effect on November 1, 2023, and postponing sentencing to after that date will remove any legal issues associated with its retroactive application.

3. The parties cannot find a date in November that works for all because of significant medical treatments and scheduling conflicts.

4. In addition, counsel for Whitmore is scheduled to begin a federal civil trial on December 4, 2023, that is expected to last approximately one week.

5. The Court is scheduled to start a lengthy bench trial on December 4, 2023.

6. All parties and the Court are available January 16 and 18, 2024.

7. This continuance is not sought for purposes of delay, but to provide the parties the time necessary to adequately prepare and to accommodate medical and trial schedules.

8. For the reasons stated above, the ends of justice would best be served by a continuance of the deadline. Denial of this request for continuance of the deadline could result in a miscarriage of justice.

9. Defendants are out of custody and do not object to the request for continuance.

ORDER

IT IS HEREBY ORDERED that the restitution hearing currently scheduled for October 10, 2023, at 11:00 a.m. is reset to 1:30 p.m. on January 16, 2024, in Courtroom 6C; and

IT IS FURTHER ORDERED that the sentencing hearings currently scheduled for October 12, 2023, at 11:00 a.m., 1:30 p.m., and 2:30 p.m., are hereby reset to:

9:00 a.m. on January 18, 2024, for Philip D. Hurbace;

10:00 a.m. on January 18, 2024, for Larry Anthony McDaniel; and

11:00 a.m. on January 18, 2024, for Sylviane Della Whitmore;

all in Courtroom 6C.

DATED: October 5, 2023



HON. ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE